



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII

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Received-DOE
Adm. Serv. Div. Office

JUN 23 1989

Ref: 8HWM-SR

JUN 22 1989

Mr. Dee Williamson
Monticello Project Manager
Department of Energy
Post Office Box 2567
Grand Junction, Colorado 81502-2567

RE: Comments on Applicable or Relevant
and Appropriate Requirements
(ARARs) for Monticello Vicinity
Properties

Dear Mr. Williamson:

The U.S. Environmental Protection Agency (EPA) has reviewed the Detailed Analysis of Federal and State ARARs for the Vicinity Properties (submitted by DOE on May 31, 1989) and listed below are our comments. Comments from the State of Utah are enclosed herewith.

Page 7 Table 1, National Primary Drinking Water Standards

Does the aquifer of concern within the Monticello Vicinity properties have a potential use in the future? If it does then this requirement should be applicable or relevant and appropriate.

Page 7 Table 1, Clean Air Act

Cite the state regulations that pertain to the Clean Air Act.

Page 7 Table 1, RCRA and Page 11, Paragraph 1

The sentence, "Therefore, the requirements of RCRA are neither applicable nor relevant and appropriate for the purposes of this analysis," is incorrect. It is agreed that the RCRA requirements would not be applicable to the site. However, RCRA should be considered relevant and appropriate. As stated on page XIV of the EPA guidance manual CERCLA Compliance with Other Laws and on page 2 of the DOE document, subject to the review, "The relevance and appropriateness of a requirement can be judged by comparing a number of factors - including the characteristics of the

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remedial action, the hazardous substances in question, and the physical circumstances of the site - with those addressed in the requirement."

The waste at the Monticello site contain heavy metals, although these metals are not EP-toxic (according to DOE, the waste is exempt under RCRA), they are similar in nature to a RCRA hazardous waste.

Additionally, the remedial action alternatives for the site are similar to a RCRA waste pile or landfill. Therefore, the requirements should be considered relevant and appropriate.

Page 13, Section 3.3, Location-Specific Requirements

Some of the potential location-specific ARARs were not included. These include:

- 1) Wilderness Act,
- 2) Wild and Scenic Rivers Act,
- 3) Coastal Zone Management, and
- 4) RCRA Location Requirements.

If you any questions regarding these comments, please contact me at FTS 564-1793.

Sincerely,



Lam Nguyen
Remedial Project Manager

Enclosure

cc: McCleod, UDH
Silvernale, SR
Geise, SR
Gardner, ORC (with enclosure)



State of Utah
DEPARTMENT OF HEALTH
DIVISION OF ENVIRONMENTAL HEALTH

Norman H. Bangertter
Governor

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BSHW-5705-1

JUN 21 1989

Mr. Lam Nguyen
U.S. EPA Region VIII
999 18th Street, Suite 500
Denver, CO 80202

Dear Mr. Nguyen:

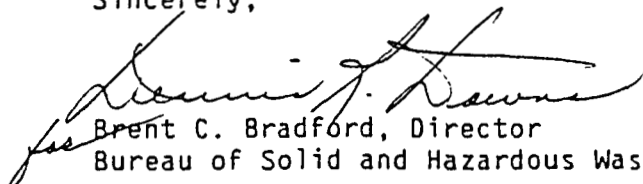
Attached are our comments on the Monticello Vicinity Properties and the Monticello Millsite proposed ARARs. In making comments on the Vicinity Properties proposed ARARs, we have assumed that ARARs associated with the ultimate remediation (e.g., Utah's Ground Water Protection Rules) will be associated with the Millsite.

I have also attached the most recent version of our generic ARARs list for your information. Please note that a correction was made in the description of state drinking water rules.

I would like to transmit this list to you with a caveat. We have not attempted to list all possible action-specific ARARs, e.g., R446-1-2.4, which prohibits open burning, and R446-1-4.2, which sets standards for sulfur content in fuels. These action-specific ARARs will be provided when the potential remedies are identified with sufficient specificity that their applicability or relevance can be ascertained.

Please contact Bob McLeod at (801) 538-6170 if you have any questions.

Sincerely,


Brent C. Bradford, Director
Bureau of Solid and Hazardous Waste

cc: Matt Cohn, EPA Regional Counsel

BCB/LJL/ljl

MONTICELLO MILL TAILINGS ARARS

1. Safe Drinking Water Act (SDWA) and the Utah Safe Drinking Water Act

These statutes and their implementing rules were not specified as an ARAR because (1) public water systems would not be affected by any of the proposed alternatives; and (2) the shallow ground water aquifer at the site is not now used for drinking, and is not likely to be used in the future as a public municipal source because of its small areal extent and yield. We believe that these requirements are ARARs and that MCLs must be used. It has not been established that there is no connection between the "shallow ground water aquifer" and that portion of the aquifer beneath the site that would be available as a supply for drinking water. In addition, it is not appropriate to base decisions about an aquifer's appropriate clean up level solely on existing uses. See CERCLA Section 121(d)(2)(B). Utah is a desert state, and a growing one, and it is our policy (as implemented in the Ground Water Protection Rules) to protect all of our underground water resources.

2. Occupational Safety and Health Act (OSHA) and Utah Occupational Safety and Health Act

The federal Occupational Safety and Health Act was listed as a federal ARAR. In Utah, the federal Act is implemented through the Utah Occupational Safety and Health Act, 35-9, U.C.A., which should be specified as an ARAR.

3. Department of Energy Orders 5480.1A and 5480.4

The Department of Energy Orders 5480.1A and 5480.4 are listed as "TBCs." It is not clear why these requirements are not applicable, or at least relevant and appropriate.

4. Hazardous Waste statutes

Although RCRA and its implementing regulations and the Utah Solid and Hazardous Waste Act and its implementing rules are not applicable, some portions, particularly performance standards, may be relevant and appropriate because of the similarity in the situation and purpose.

5. Wildlife Protection

It appears that the term "protected wildlife" has been defined too narrowly with respect to the wildlife protection provisions at 23-15-3 and 6. "Protected wildlife" includes invertebrates that are found in surface waters affected by the site.

6. Reclamation of Mined Lands

"Mining" under the Utah Mined Land Reclamation Act is defined to include milling and other primary processing. 40-8-4(8)(a), U.C.A. This requirement should therefore be considered an ARAR.

7. State clean-up policy

This clean up policy is applicable. It explicitly applies to RCRA, CERCLA and UST clean ups. See 450-101-1.

8. Water Pollution Control Act

It should be clarified that the Water Pollution Control Act, Sec. 8(1), applies.

9. Ground Water Protection Rules

These rules have now been approved, and will be effective by August 1, 1989. They have been assigned the number R448-6, U.A.C. See also comments on the Safe Drinking Water Act (SDWA) and the Utah Safe Drinking Water Act.

Monticello Vicinity Properties ARARs

1. Occupational Safety and Health Act (OSHA) and Utah Occupational Safety and Health Act

See comments for the Monticello Millsite proposed ARARs, which are incorporated herein by this reference.

2. Department of Energy Orders 5480.1A and 5480.4

See comments for the Monticello Millsite proposed ARARs, which are incorporated herein by this reference.

3. State clean-up policy

See comments for the Monticello Millsite proposed ARARs, which are incorporated herein by this reference.

4. Ground Water Protection Rules

See comments for the Monticello Millsite proposed ARARs, which are incorporated herein by this reference.

POTENTIAL ARARS FOR THE STATE OF UTAH

A. BUREAU OF SOLID AND HAZARDOUS WASTE, DIVISION OF ENVIRONMENTAL HEALTH, DEPARTMENT OF HEALTH

1. Subject: Solid and Hazardous Waste Act
Statute: Title 26, Chapter 14, U.C.A.
2. Subject: Solid Waste
Statute: Title 26, Chapter 14, U.C.A.
Rule: R450-301, U.A.C.
Remarks: The Bureau of Solid and Hazardous Waste has been working on these proposed rules regulating solid waste. They are expected to be finalized by early July, 1989. There are no corresponding federal regulations. See particularly R450-301-4(b)(5), (9) and (10); R450-301-5(b)(7); and R450-8.
3. Subject: Solid and Hazardous waste
Statute: Title 26, Chapter 14, U.C.A.
Rule: R450, U.A.C.
Remarks: These rules are substantively identical to the federal rules promulgated under the Resource Conservation and Recovery Act, with the following exceptions:
 - o R450-2-1 (Table 2-III): listings for K048 and K051 (separator sludges) are broader than federal listings;
 - o R450-2-1 (Table 2-I): listing for F999 (military agent) has no corresponding federal provision;
 - o R450-9, regarding spill reporting requirements, has no corresponding federal provisions;
 - o R450-3-23 lists siting criteria for new commercial hazardous waste facilities.
4. Subject: Remedial/corrective action
Statute: Title 26, Chapter 14, U.C.A.; Title 26, Chapter 14b, U.C.A., and Title 26, Chapter 14d, U.C.A.
Rule: R450-101, U.A.C.
Remarks: This rule lists standards and criteria to be used in establishing clean-up standards for remedial/corrective actions taken pursuant to RCRA, CERCLA, State Superfund and UST. There is no corresponding federal regulation.

B. BUREAU OF WATER POLLUTION CONTROL, DIVISION OF ENVIRONMENTAL HEALTH, DEPARTMENT OF HEALTH

1. Subject: Water Pollution Control Act
Statute: Title 26, Chapter 11, U.C.A.
Rule: See particularly 26-11-8(1), U.C.A.

2. Subject: Definitions for Water Pollution Rules and General Requirements
Statute: Title 26, Chapter 11, U.C.A.
3. Subject: Standards for Quality for Waters of the State
Statute: Title 26, Chapter 11, U.C.A.
Rule: R448-2
Remarks: These rules are specific to Utah waters, though they are derived in part by using federal criteria. See particularly the non-degradation policy in R448-2-3, U.A.C., and the classification of waters in R448-2-13, U.A.C.
4. Subject: Sewers and wastewater treatment works
Statute: Title 26, Chapter 11, U.C.A.
Rule: R448-3, U.A.C.
Remarks: Construction and performance requirements. These rules are substantively equivalent to corresponding federal regulations.
5. Subject: Large underground wastewater disposal systems
Statute: Title 26, Chapter 11, U.C.A.
Rule: R448-5, U.A.C.
Remarks: Governs domestic wastewater systems. These rules are substantively equivalent to corresponding federal regulations.
6. Subject: Surface disposal of produced water from gas and oil wells
Statute: Title 26, Chapter 11, U.C.A.
Rule: R448-6, U.A.C.
Remarks: These rules are substantively equivalent to corresponding federal regulations.
7. Subject: Underground injection control
Statute: Title 26, Chapter 11, U.C.A.
Rule: R448-7, U.A.C.
Remarks: See particularly R448-7-9 specifying technical requirements. These rules are substantively equivalent to corresponding federal regulations.
8. Subject: Utah pollution discharge elimination system
Statute: Title 26, Chapter 11, U.C.A.
Rule: R448-8, U.A.C.
Remarks: See particularly R448-8-7 specifying criteria and standards. These rules are substantively equivalent to corresponding federal regulations.
9. Subject: Ground water protection
Statute: Title 26, Chapter 11, U.C.A.
Rule: R448-6, U.A.C. (see remarks)
Remarks: The Bureau of Water Pollution Control, in cooperation with other bureaus in the Division, is nearing completion of promulgation of ground water protection standards. They are expected to be in place by August 1, 1989. There is no corresponding federal program.

C. BUREAU OF AIR QUALITY, DIVISION OF ENVIRONMENTAL HEALTH, DEPARTMENT OF HEALTH

1. Subject: Air Conservation Act
Statute: Title 26, Chapter 13, U.C.A.
2. Subject: Utah Air Conservation Rules.
Statute: Title 26, Chapter 13, U.C.A.
Rule: R446-1
Remarks: These rules are substantively identical to corresponding federal regulations, with the following exceptions:
 - o R446-1-1.25 and R446-1-3.1.8, which require application of best available control technology for any source, including minor sources;
 - o R446-1-2.4, which restricts open burning;
 - o R446-1-3.11, which lists criteria to be considered in establishing visibility standards;
 - o R446-1-4.1, which sets visible emission standards;
 - o R446-1-4.2, which sets standards for sulfur content in fuels;
 - o R446-1-4.5, which regulates fugitive dust emissions; and
 - o R446-1-5.1, which allows the State to require temporary closure of air pollution sources in the event of an air pollution emergency episode.

D. BUREAU OF DRINKING WATER/SANITATION, DIVISION OF ENVIRONMENTAL HEALTH, DEPARTMENT OF HEALTH

1. Subject: Safe Drinking Water Act
Statute: Title 26, Chapter 12, U.C.A.
1. Subject: Utah Public Drinking Water Rules
Statute: Title 26, Chapter 12.
Rule: R449, U.A.C.
Remarks: See particularly R449-103 establishing drinking water standards. These standards are identical to federal standards with the following pertinent exceptions: for sulfate, the primary standard (MCL) for the state is set at 1000 mg/l; for TDS, the primary standard (MCL) is set at 2000 mg/l. For both of those standards, water at greater than half the primary level may not be used for drinking water unless no better source of water is available.

E. BUREAU OF RADIATION CONTROL, DIVISION OF ENVIRONMENTAL HEALTH, DEPARTMENT OF HEALTH

1. Subject: General provisions regarding radiation control
Statute: 26-1-5, U.C.A., and 26-1-27 through 29, U.C.A.
2. Subject: General provisions -- definitions and other provisions applicable to following subjects.
Statute: 26-1-5, U.C.A., and 26-1-27 through 29, U.C.A.
Rule: R447-12, U.A.C.

I. STATE ENGINEER, DEPARTMENT OF NATURAL RESOURCES

1. Subject: Well drilling standards -- standards for drilling and abandonment of wells.
Statute: 73-3-25, U.C.A.
Rule: R625-4, U.A.C.
Remarks: Includes such requirements as performance standards for casing joints, requirements for abandoning a well. There are no corresponding federal regulations.
2. Subject: Relocation of natural streams -- procedures and standards governing rechanneling of stream beds.
Statute: 73-3-29, U.C.A.
Rule: None.
3. Subject: Dam Safety -- standards governing integrity of water impoundment structures, including construction design and removal.
Statute: 73-5-5 through 7 and 73-5-12, U.C.A.
Rule: R625-3, U.A.C.
Remarks: See particularly R625-3-10 and 11, U.A.C.

J. DIVISION OF STATE HISTORY, DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

1. Subject: Protection of archaeological, anthropological and paleontological resources
Statute: 63-18-18 through 38, U.C.A.
Rule: R224, U.A.C.
Remarks: See particularly Section 63-18-18, U.C.A., stating legislative interest in preservation of archaeological, anthropological and paleontological resources, Section 63-18-25, U.C.A., regarding historical resources on state lands, and Section 63-18-37, U.C.A. regarding projects by state agencies.

K. INDUSTRIAL COMMISSION

1. Subject: Utah Occupational Safety and Health Standards
Statute: Title 35, Chapter 9, U.C.A.
Rule: R500, U.A.C.
Remarks: These rules are identical to federal OSHA regulations.

3. Subject: Licensing requirements for handling radioactive materials.
Statute: 26-1-5, U.C.A., and 26-1-27 through 29, U.C.A.
Rule: R447-19, 21 and 22, U.A.C.
Remarks: Although these provisions relate primarily to licensing requirements, they also contain some substantive standards. See, e.g., R447-19-500 regarding standards for transportation.

F. DEPARTMENT OF AGRICULTURE

1. Subject: Pesticide control -- safe and appropriate use of pesticides.
Statute: Title 4, Chapter 14, Utah Code Annotated (U.C.A.)
Rule: R68-07, Utah Administrative Code (U.A.C.)
Remarks: See particularly R68-07-10, U.A.C., regarding storage, transport and disposal, and R68-07-11, U.A.C., regarding other unlawful acts.

G. DIVISION OF WILDLIFE RESOURCES, DEPARTMENT OF NATURAL RESOURCES

1. Subject: General definitions -- definitions for Wildlife Resources Code, Title 23, Chapter 13, U.C.A.
Statute: 23-13-2, U.C.A.
Rule: None.
2. Subject: Diversion of water -- diversion endangering protected aquatic wildlife prohibited.
Statute: 23-15-3, U.C.A.
Rule: None.
3. Subject: Water pollution -- pollution of waters containing protected aquatic wildlife (including specified invertebrates) unlawful.
Statute: 23-15-6, U.C.A.
Rule: None.

H. DIVISION OF OIL, GAS AND MINING, DEPARTMENT OF NATURAL RESOURCES

1. Subject: Mine Safety Provisions -- provisions regarding subsidence, fire protection and first aid materials.
Statute: Title 40, Chapter 5, U.C.A.
Rule: None.
2. Subject: Reclamation of lands mined for minerals -- specifies standards for such reclamation.
Statute: Title 40, Chapter 8, U.C.A.
Rule: R13-1M, U.A.C.
Remarks: See particularly R613-1M-10, U.A.C.
3. Subject: Mining Standards -- standards governing operation and reclamation of strip mines.
Statute: Title 40, Chapter 10, U.C.A.
Rule: R614, U.A.C.
Remarks: See particularly 40-10-17, U.C.A.

UNC Geotech

UNC Geotech
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June 23, 1989

Received-DOE
Grand Jct. Proj. Office

JUN 26 1989

Mr. Dee Williamson
U.S. Department of Energy
Grand Junction Projects Office
P.O. Box 2567
Grand Junction, CO 81502

**SUBJECT: ADDITIONAL DOCUMENTATION FOR MONTICELLO VICINITY PROPERTIES
EQUIVALENCY DOCUMENTATION**

Dear Mr. Williamson:

The State of Utah and U.S. Environmental Protection Agency Region VIII have approved the Monticello Vicinity Properties *Equivalency of Documentation* (MVP EOD) provided that two additional documents are included. The Monticello Remedial Action Project RI/FS is to be included following resolution of State and EPA comments. The final Environmental Impact Statement (EIS) for Remedial Action Standards for Inactive Uranium Processing Sites (40 CFR 192, October 1982) is also to be added as additional documentation.

Attached are tabs identifying the final EIS as document "AE" of the MVP EOD, and 6 copies of the EIS. These are to be added to the MVP EOD currently in your possession and submitted to DOE-ID, DOE-HQ, the State of Utah, and EPA Region VIII for inclusion in their copies of the EOD.

Sincerely,



Brian W. Mathis
Program Manager

BWM/sn

Attachment